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## OLR Bill Analysis

### sSB 450

#### ***AN ACT CONCERNING ENERGY CONSERVATION AND RENEWABLE ENERGY, ENERGY INFRASTRUCTURE IMPROVEMENTS, ENERGY EQUIPMENT EFFICIENCY, TREE TRIMMING AND ELECTRIC VEHICLE INFRASTRUCTURE.***

#### **SUMMARY:**

This bill eliminates the need to obtain a permit from a tree warden, the Department of Transportation (DOT), or other authority to cut or remove any tree or shrub within the limits of a public road or grounds. Under current law, in cases involving utilities, a permit denial can be appealed to the Public Utilities Regulatory Authority (PURA), which makes the final decision. The bill makes it easier for electric and telephone companies to cut or trim trees, both on their easements and on private property.

The bill requires that the costs of tree trimming by electric and telephone companies be recovered by the systems benefits charge (SBC) on electric bills. In current practice, these costs are primarily recovered through the distribution charge on electric bills.

The bill contains a number of provisions to promote energy efficiency, renewable energy, and electric vehicles. Among other things, it:

1. eliminates the cap on subsidies for energy audits for people who heat with oil or other non-utility fuels,
2. potentially increases the amount of renewable generation that electric companies and non-utility generators can build,
3. require DEEP to develop a plan to promote fast charging stations for electric vehicles, and
4. exempts electric and fuel cell vehicles from the sales tax until

July 1, 2014.

The bill limits the applicability of the code of conduct for sales by competitive electric suppliers and aggregators.

The bill also requires that:

1. residential and commercial building contractors inform consumers of any state or federal incentives for installing energy efficient options before entering into a contract to construct a building;
2. the Department of Energy and Environmental Protection (DEEP) study issues regarding natural gas line extensions and heating oil dealers and the renewable portfolio standard (RPS), under which electric companies and competitive suppliers must get part of their power from renewable resources;
3. PURA conduct a proceeding by January 1, 2013 to establish rates to promote the use of geothermal systems; and
4. the costs of a PURA study, mandated by current law, on the electric wholesale market be funded by the SBC.

EFFECTIVE DATE: Upon passage for the energy audit, renewable generation, and electric vehicle plan provisions, the studies, and the geothermal proceeding; July 1, 2012 for the remaining provisions, with the sales tax exemption for electric and hydrogen fuel cell vehicles applying to sales made on or after this date.

## **TREE TRIMMING**

### **§ 5 — *Property Owner's Consent***

Under current law, electric and telephone companies must seek the consent of property owners when they cut or trim trees overhanging highways or public grounds. (The strip between a sidewalk and a street is typically part of the highway right of way.) If the owner does not consent, the company can proceed with the approval of PURA or the municipal tree warden, following notice and an opportunity for a

hearing.

The bill eliminates the consent requirement and instead requires the company to (1) publish a newspaper notice of its intent and (2) notify the tree warden and DOT. It eliminates the tree warden's ability to permit the cutting or trimming. The bill allows the adjoining property owner, tree warden, or DOT to object within 10 days of the publication or notice, in which case PURA must hold a hearing after notifying the owner, tree warden, or DOT. PURA can then authorize the company to proceed with the trimming if it finds that the public convenience and necessity require it.

The bill extends the new procedures to trees on or overhanging private property that may fall into a utility line as a result of natural causes, such as wind, snow, ice, or disease. The bill also exempts from the notice requirement trimming any tree branches or other vegetation within 10 feet of the utility line if the tree is up to 12 inches in diameter measured at 4.5 feet above the ground.

The bill applies the above provisions to trees in all utility rights-of-way or easements, some of which are not located along highways. It is unclear whether cutting or trimming trees on private property under these provisions would constitute a taking or trespass (see COMMENT).

### **§ 7 — *Tree Trimming Permits***

The bill eliminates (1) a requirement that a person, other than a tree warden, obtain a permit from the tree warden, DOT, or other authority before cutting or removing a tree or shrub in the limits of a road or public grounds and (2) related provisions. Under current law, the authority must hold a hearing on the application. If a utility company is the applicant, a party aggrieved by the decision can appeal to PURA, which makes the final decision. If DOT approves an application, it and the permittee must notify the tree warden.

### **§ 6 — *DOT Permits***

By law, a DOT permit is needed for anyone to cut, trim, or remove a

tree on a state highway, but this does not limit the ability of utility companies to cut and trim trees. The bill specifies that the utilities must do so in accordance with the law, as amended by the bill. It eliminates a provision requiring DOT to notify the municipal chief elected official if anyone seeks a permit to trim or remove a tree that is 18 inches or more in diameter located on a state highway in town.

#### **§ 7 — *Penalty for Unauthorized Cutting or Trimming***

The bill exempts utility companies that act in accordance with the law's provisions on tree trimming from a provision that allows the courts to (1) order restoration of affected property or (2) award damages of up to five times the restoration cost or \$5,000 if an entity prunes or injures a tree in a public way or grounds without (a) the legal right to do so or (b) a permit from PURA, a tree warden or city forester, or DOT.

### **ENERGY EFFICIENCY**

#### **§ 16 — *Energy Audits***

Under current law, the home energy services audit program subsidizes customers who heat with oil or other nonutility fuels. Although the program is funded by charges on gas and electric bills, the law requires that audit charge must be the same, regardless of how the property owner heats his or her home. Current law limits the subsidy that customers who heat with gas or electricity provide to those who heat with oil or other nonutility fuels to \$500,000 per year. The bill eliminates the subsidy cap so long as funding for the audits is provided under the utilities' conservation plans.

### **RENEWABLE ENERGY**

#### **§ 15 — *Renewable Electric Generation***

Under current law, (1) each electric company can build, own, or operate up to 10 megawatts of renewable energy generation facilities using Class I renewable energy sources and (2) non-utility generators can collectively build, own, or operate another 10 megawatts, for a total of 30 megawatts. The bill allows DEEP to approve proposals to build, own, or operate generation facilities that exceed the 30

megawatts total cap or the 10 megawatt cap per electric company. The bill allows DEEP to do this if it determines that the cost to ratepayers of any facility is lower than the cost it anticipated. In this case, DEEP may approve proposals exceeding the caps by any amount of megawatts that reflects the difference between the anticipated cost to ratepayers of the facility and its actual cost to ratepayers.

### **§ 11 — *Municipal Renewable Energy Program***

The bill requires PURA to establish a pilot program for up to three municipalities that own, lease, or operate any Class I renewable energy sources (e.g., solar or wind) to distribute electricity they generate from these sources using wires or other fixtures across a public road, so long as each municipality distributes the electricity across only one public road to a facility it owns or operates.

### **§§ 13 & 14 — *Renewable Energy Credits***

By law, electric companies and competitive suppliers can meet their RPS obligations by buying renewable energy credits. The bill allows these credits to be used under two related programs in the year when they are generated and the following two years. The programs require electric companies to enter into long-term contracts to buy credits produced by zero- and low-emission renewable energy sources.

### **§§ 17-21 — *ALTERNATIVE FUEL AND FUEL CELL VEHICLES***

The bill:

1. requires the state building inspector and the Codes and Standards Committee to revise the state building code by July 1, 2013 to (a) provide for an electric vehicle infrastructure for all types of electric vehicles, including those that can be charged by 240 volt circuits; (b) provide for systems that allow electric vehicles to take power from the grid or put power onto the grid without significant upgrading, if the electric companies can accommodate the latter; and (c) require all new residential and certain commercial construction to be capable of supporting this infrastructure;

2. establishes an “electric vehicle infrastructure support account” (although it does not specify funding for the account), for PURA to provide grants to businesses seeking to upgrade infrastructure to support the use of electric and hydrogen fuel-cell powered vehicles;
3. exempts electric and fuel cell vehicles from the sales tax until July 1, 2014; and
4. requires DEEP to develop a plan to promote the use of electric vehicles in the state and to facilitate the statewide installation of Level III fast charging stations, i.e., those that charge electric vehicles with direct current using devices that are not mounted in the vehicle.

The plan must identify the resources necessary to promote statewide installation of these chargers. DEEP must submit the plan to the Energy and Technology Committee by February 1, 2013.

## **§ 12 — CODE OF CONDUCT FOR ELECTRIC SUPPLIERS**

The bill limits the scope of the law that regulates how competitive electric suppliers and aggregators (entities that group customers together to make them more attractive to suppliers) market their services to residential and small business. Under current law, sales by suppliers, aggregators, or their agents that offer electric supply services to customers whose maximum demand is less than 100 kilowatts that are made at a location other than the marketer’s place of business must be conducted:

1. in accordance with any municipal and local ordinances regarding door-to-door solicitations;
2. between 10 a.m. and 6 p.m., unless the customer schedules an earlier or later appointment; and
3. with both English and Spanish written material available.

The bill eliminates the option of a customer scheduling an

appointment before 10 a.m. or after 6 p.m. It limits the above provisions to sales made based on unsolicited sales calls. Thus, they would continue to apply to door-to-door sales, but would not apply if a prospective customer called the supplier or aggregator first.

### **§§ 1, 2, & 9 — DEEP STUDIES**

The bill requires DEEP to conduct studies to identify:

1. the instances when it is more cost effective to (a) promote policies for natural gas line extension or (b) develop programs to increase the efficiency of heating oil equipment and
2. barriers to heating oil dealers in providing other energy services, such as the installation of energy equipment that does not use petroleum products.

DEEP must consult with the Department of Consumer Protection on the second study. DEEP must report its findings on both studies to the Energy and Technology Committee by January 1, 2013.

The bill requires DEEP to review the existing renewable portfolio standards. The study must identify methods to increase participation by in-state generators under this provision, including the use of combined heat and power (cogeneration) systems, zero emission vehicles, and energy conservation programs. By January 1, 2013, DEEP must report its findings to the Energy and Technology Committee.

### **BACKGROUND**

#### ***Related Bills***

sSB 415, reported favorably by the Energy and Technology Committee also has a provision on energy audits. It eliminates the (1) requirement that the audit charge be the same regardless of how a person heats his or her home and (2) cap on the subsidy provided to customers who use non-utility heating systems. Instead, it requires that the charge reflect the contributions made to the Energy Efficiency Fund by each type of customer, subject to a \$75 cap (the current charge). SB 415 also has provisions specifying how the zero- and low-emission renewable energy credit purchase programs are funded.

**COMMENT**

***Cutting and Trimming Trees on Private Property***

The bill allows electric and telephone companies to cut and trim trees on private property, under certain circumstances, without the property owner's consent. This might constitute trespass by the company if the company entered the customer's property, since neither current law or the bill grant the company a right to enter the property. To the extent that the cutting or trimming reduces the property's value, it might constitute a taking for which the state would be obligated to provide compensation.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute

Yea 15      Nay 6      (03/28/2012)